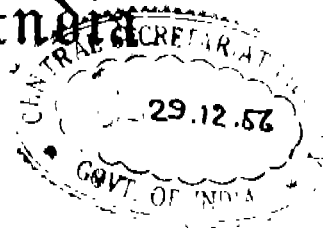


The Gazette of India



EXTRAORDINARY PART II—Section 2 PUBLISHED BY AUTHORITY

No. 65] NEW DELHI, FRIDAY, DECEMBER 14, 1956

LOK SABHA

The following Bills were introduced in Lok Sabha on the 14th December, 1956:—

BILL No. 86 OF 1956

A Bill to confer on the President the power of the Legislature of the State of Kerala to make laws.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. This Act may be called the Kerala State Legislature (Delegation of Powers) Act, 1956.

2. In this Act, "Proclamation" means the Proclamation issued on the 1st day of November, 1956, by the President under clause (1) of article 356 of the Constitution.

3. (1) The power of the Legislature of the State of Kerala to make laws, which has been declared by the Proclamation to be exercisable by or under the authority of Parliament, is hereby conferred on the President.

Conferment on the President of the power of the State Legislature.

(2) In the exercise of the said power, the President may, from time to time, whether Parliament is or is not in session, enact as a President's Act a Bill containing such provisions as he considers necessary:

Provided that before enacting any such Act, the President shall, whenever he considers it practicable to do so, consult a Committee constituted for the purpose consisting of all the Members of the House of the People and the Council of States who for the time being fill the seats allotted to the State of Kerala in the two Houses.

(3) Every Act enacted by the President under sub-section (2) shall, as soon as may be after enactment, be laid before each House of Parliament.

(4) Either House of Parliament may, by resolution passed within seven days from the date on which the Act has been laid before it under sub-section (3), direct any modifications to be made in the Act and if the modifications are agreed to by the other House of Parliament during the session in which the Act has been so laid before it or the session succeeding, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2):

Provided that nothing in this sub-section shall affect the validity of the Act or of any action taken thereunder before it is so amended.

STATEMENT OF OBJECTS AND REASONS

Under the Proclamation of the President dated the 1st November, 1956, the powers of the Legislature of the Kerala State are now exercisable by or under the authority of Parliament. Such legislative measures as may be necessary for the State can be taken up by Parliament only by postponing its business and even then, it is likely that Parliament may not have the time to deal with all legislative measures for the State. It is therefore proposed that Parliament should, in accordance with the provisions of article 357(1) of the Constitution, confer by law on the President the power of the legislature of the State of Kerala to make laws for the State.

The present Bill is intended to give effect to this proposal.

G. B. PANT

NEW DELHI;

The 10th December, 1956.

BILL No. 90 OF 1956

A Bill to amend the Union Duties of Excise (Distribution) Act, 1953.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :—

Short title. 1. This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1956.

Insertion of new section 3A. 2. After section 3 of the Union Duties of Excise (Distribution) Act, 1952, the following section shall be inserted, namely :— 5
3011953.

Transitional provision for distribution of a part of the Union duties of excise among the States. "3A. Section 3 shall have no effect in respect of the financial year 1957-58, and during that year, there shall be paid out of the Consolidated Fund of India to each of the States specified in column 1 of the Table below such percentage of 10 the distributable Union duties of excise as is set out against it in column 2.

TABLE

1	2	
State	Percentage	
Andhra Pradesh	8.92	15
Assam	2.58	
Bihar	11.04	
Bombay	13.59	
Kerala	3.86	

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommend to Lok Sabha the introduction and consideration of the Bill.

State	Percentage		
Madhya Pradesh	6·17
Madras	8·54
Mysore	5·45
Orissa	4·17
Punjab	4·60
Rajasthan	4·34
Uttar Pradesh	18·00
West Bengal	7·49
Jammu and Kashmir	1·25

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STATEMENT OF OBJECTS AND REASONS

This Bill is intended to give effect to one of the interim recommendations of the Finance Commission for the provisional distribution during the year 1957-58 of 40 per cent. of the net proceeds of the Union duties of excise on matches, tobacco and vegetable products amongst the various States. The payments will, however, be subject to readjustment in the light of the decisions to be taken on the final recommendations of the Finance Commission.

T. T. KRISHNAMACHARI.

NEW DELHI;

The 13th December, 1956.

FINANCIAL MEMORANDUM

At the existing rates of Union Excise Duties and on the basis of the estimates for the current financial year, the Bill will involve a payment of Rs. 18·2 crores from the Consolidated Fund of India to the States. The amount for the coming year, however, would depend upon the actual net revenue from the excise duties on matches, tobacco and vegetable products realised in that year.

2. No administrative expenditure will be incurred in carrying out the provisions of the Bill.

BILL NO. 91 OF 1956

A Bill to provide for the establishment of Territorial Councils in certain Union territories.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Territorial Councils Act, 1956. 5
- (2) It extends to the Union territories of Himachal Pradesh, Manipur and Tripura.
- (3) It shall come into force in each of the Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for 10 different Union territories.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (1) "Administrator" means the Administrator of a Union territory;
- (2) "article" means an article of the Constitution; 15
- (3) "building" includes a house, out-house, stable, latrine, urinal, shed, hut, wall (other than boundary wall) and any other structure, whether of masonry, bricks, wood, mud or other material but does not include any portable or temporary shelter;
- (4) "constituency" means a territorial Council constituency 20 provided by order made under section 4 for the purpose of elections to the Territorial Council;
- (5) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruit, vegetables, animals intended for human food or any other 25 articles of human food whatsoever with or without the consent of the owner of such place notwithstanding that there may be no common regulation for the concourse of buyers and sellers and whether or not any control is exercised over the business of,

The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill,

or the persons frequenting, the market by the owner of the place or by any other persons;

(6) "Official Gazette" means the Gazette of the Union territory concerned;

5 (7) "person" does not include a body of persons;

(8) "Territorial Council" means a Territorial Council constituted under this Act;

(9) "Union territory" means any of the Union territories of Himachal Pradesh, Manipur and Tripura;

10 (10) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tri-cycle, motor vehicle and every wheeled conveyance which is used or is capable of being used on a street.

CHAPTER II

CONSTITUTION OF TERRITORIAL COUNCILS

15 3. (1) For each Union territory there shall be a Territorial Council as from such date as the Administrator may, by notification in the Official Gazette, appoint in this behalf. Constitution of Territorial Councils and their composition.

(2) The total number of seats in the Territorial Council to be filled by persons chosen by direct election on the basis of adult
20 suffrage from territorial constituencies shall be forty in the case of the Territorial Council of Himachal Pradesh and thirty in the case of the Territorial Council of Manipur or of Tripura:

Provided that of the total number of such seats in the Territorial Council of Himachal Pradesh twelve seats shall be reserved for the
25 Scheduled Castes.

(3) The Central Government may nominate not more than four persons to be members of any Territorial Council.

4. The Central Government shall, by order, determine—

(a) the constituencies into which a Union territory shall be
30 divided for the purpose of election of members to the Territorial Council of that territory; Delimitation of constituencies.

(b) the extent of each constituency;

(c) the number of seats allotted to each constituency; and

(d) the number of seats, if any, reserved for the Scheduled
35 Castes in each constituency in the Union territory of Himachal Pradesh.

5. The Central Government may, from time to time, by order, alter or amend any order made under section 4. Power to alter or amend delimitation orders.

Qualifications
for mem-
bership.

6. A person shall not be qualified to be chosen as a member of a Territorial Council of a Union territory unless he is an elector for any Territorial Council constituency in that territory and, in the case of a seat reserved for the Scheduled Castes is also a member of those castes.

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Disqualifica-
tions for
membership.

7. A person shall be disqualified for being chosen as a member of a Territorial Council if he is for the time being disqualified for being chosen as a member of either House of Parliament.

Electorate and
electoral
rolls.

8. (1) The persons entitled to vote at elections of members of a Territorial Council shall be the persons entitled, by virtue of the provisions of the Constitution and the Representation of the People Act, 1950, to be registered as voters at elections to the House of the People.

43 of 1950

(2) So much of the electoral roll for any Parliamentary constituency for the time being in force as relates to the areas comprised within a constituency formed under section 4 shall be deemed to be the electoral roll for that constituency for the purposes of this Act.

Right to
vote.

9. (1) Every person whose name is, for the time being, entered in the electoral roll of a constituency shall be entitled to vote at the election of a member of the Territorial Council from that constituency.

(2) Every person shall give one vote and no more to any one candidate at an election but in plural member constituencies every elector shall have as many votes as there are members to be elected.

Election of
Members.

10. The election of members of a Territorial Council shall be held in accordance with rules made under section 20, on such date or dates as the Administrator may, by notification in the Official Gazette, direct:

Provided that a casual vacancy shall be filled as soon as may be after the occurrence of the vacancy:

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Provided further that no election shall be held to fill up a casual vacancy occurring within four months prior to the holding of a general election under this section.

Notification
of results of
elections.

11. The names of all persons elected or nominated to be members of a Territorial Council shall be published by the Administrator in the Official Gazette.

Term of
office of
members.

12. (1) Save as otherwise provided in this section, the term of office of a member of a Territorial Council shall be five years and shall commence from the date of the notification of his election or nomination under section 11 or from the date on which the

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vacancy in which he is elected or nominated has occurred, whichever date is later:

Provided that the Central Government may, when satisfied that it is necessary in order to avoid administrative difficulty, extend the term of office of all the elected members of a Council by such period, not exceeding one year, as it thinks fit.

(2) The term of office of a member elected to fill a casual vacancy shall commence from the date of election and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

13. (1) No election of a member shall be called in question except by an election petition presented to the court of the District Judge having jurisdiction in the area in which the constituency concerned is situated, within thirty days from the date of the notification of the result of the election.

Disputes as to elections.

(2) An election petition calling in question any such election may be presented on one or more of the grounds specified in section 15 by any candidate at such election or by any elector of the constituency.

(3) A petitioner shall join as respondents to his petition all the candidates at the election.

(4) An election petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall, with sufficient particulars, set forth the ground or grounds on which the election is called in question; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

14. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

Relief that may be claimed by petitioner.

15. The election of a returned candidate may be called in question on any one or more of the following grounds, namely:—

Grounds on which an election may be called in question.

(a) that on the date of his election the returned candidate was not qualified to be elected, or was disqualified for being elected, as a member under this Act; or

(b) that the nomination paper of any candidate at the election has been improperly rejected; or

(c) that the result of the election has been materially affected by the improper acceptance of a nomination paper or by the improper acceptance or refusal of a vote or by any other cause.

Procedure to be followed by the District Judge.

16. The procedure provided in the Code of Civil Procedure, 1908 in regard to suits shall be followed by the court of the District Judge, as far as it can be made applicable, in the trial and disposal of an election petition under this Act.

5 of 1908

Decision of the District Judge.

17. (1) At the conclusion of the trial of an election petition, the court of the District Judge shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of all or any of the returned candidates to be void; or

(c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

(2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the court of the District Judge is of opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes, or

(b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes, the Court of the District Judge shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

Procedure in case of equality of votes.

18. If during the trial of an election petition it appears that there is equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then the court of the District Judge shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

Finality of decisions.

19. (1) An order of the court of the District Judge on an election petition shall be final and conclusive.

(2) An election of a member not called in question in accordance with the foregoing provisions shall be deemed to be a good and valid election.

Power to make rules regulating the election of members.

20. The Central Government may make rules to regulate all or any of the following matters for the purpose of the holding of elections of members under this Act, namely:—

(a) the manner of the splitting up of electoral rolls for Parliamentary constituencies into parts for the purpose of constituting one or more of such parts into the electoral roll for a

constituency; and the officer or authority by whom such splitting up is to be carried out;

(b) the drawing up of the programme of election;

(c) the appointment of returning officers, presiding and polling officers for election;

(d) the nomination of candidates and the scrutiny of such nominations;

(e) the deposits to be made by candidates and the time and manner of making such deposits;

(f) the withdrawal of candidatures;

(g) the appointment of agents of candidates;

(h) the time and manner of holding elections;

(i) the general procedure at the elections including the time, place and hours of poll and the method by which votes shall be cast;

(j) the fee to be paid on an election petition;

(k) any other matter relating to elections or election disputes in respect of which the Central Government deems it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary.

21. A Territorial Council shall, by the name of the Union Territory for which it is constituted, be a body corporate and shall have perpetual succession and a common seal, with power to acquire, hold and dispose of property, and to contract, and may by the said name sue and be sued.

Incorporation of Territorial Councils.

22. (1) A Territorial Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Vice-Chairman thereof and, so often as the office of Chairman or Vice-Chairman becomes vacant, the Council shall choose another member to be Chairman or Vice-Chairman, as the case may be:

Chairman and Vice-Chairman.

Provided that the Central Government may nominate the first Chairman who shall hold office for a period not exceeding three years.

(2) The Chairman of the Council shall be a whole-time functionary and will be entitled to such salary or allowances as may be fixed by the Central Government.

23. Every member of a Territorial Council shall, before taking his seat, make and subscribe at a meeting of the Council, an oath or affirmation in the prescribed form.

Oath or affirmation by members.

Vacation of
seats.

24. (1) No person shall be a member both of Parliament and of the Territorial Council of a Union territory, and if a person is chosen a member both of Parliament and of such Council, then at the expiration of 14 days from the date of publication in the Gazette of India or in the official Gazette, whichever is later, that he has been so chosen, that person's seat in the Territorial Council shall become vacant, unless he has previously resigned his seat in the Parliament. 5

(2) If a member of the Territorial Council of a Union territory—

(a) becomes subject to any disqualification mentioned in section 7, or 10

(b) resigns his seat by writing under his hand addressed to the Chairman,

his seat shall thereupon become vacant.

(3) If during six successive months, a member of a Territorial Council is, without permission of the Council, absent from all meetings thereof, the Council may declare his seat vacant. 15

(4) If any question arises as to whether a member has become subject to any of the disqualifications mentioned in section 7, it shall be referred to the District Judge having jurisdiction in the area in which the constituency concerned is situated, and his decision shall be final. 20

Salaries and
allowances
of members.

25. Members of a Territorial Council shall be entitled to receive such salaries or allowances, if any, as may be determined by the Central Government.

Liability of
members.

26. Every person shall be liable for the loss, waste or misappropriation of any money or other property belonging to a Territorial Council, if such loss, waste or misappropriation is a direct consequence of his neglect or misconduct while a member of the Territorial Council and a suit for compensation may be instituted against him by the Council with the previous sanction of the Central Government, or by the Administrator with the previous sanction of the Central Government. 25 30

Members to
be deemed
to be public
servants.

27. Every member of a Territorial Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 35

CHAPTER III

FUNCTIONS OF TERRITORIAL COUNCILS

Functions of
Territorial
Councils.

28. Subject to such exceptions and conditions as the Central Government may make and impose, the following matters shall be

under the control and administration of a Territorial Council, namely:—

- 5 (i) the maintenance and management of such property, movable and immovable, and institutions, as may be transferred to that Council;
- (ii) the construction, repair and maintenance of such of the roads, bridges, channels, buildings and tanks as may be transferred to the Council;
- 10 (iii) the planting and preservation of trees and avenues;
- (iv) the regulation and prohibition of the driving, riding or leading of animals or vehicles of any particular kind or the driving of carts and carriages exceeding a prescribed weight along any road under its jurisdiction;
- 15 (v) the construction and maintenance of rope-ways, tramways, and other means of transport with the previous sanction of the Central Government;
- 20 (vi) the establishment, maintenance and management of primary and secondary schools and the construction and repair of all buildings connected with these institutions; training of teachers and establishment of scholarships;
- (vii) the establishment and maintenance of pounds, including such functions under the Cattle Trespass Act, 1871, as may be transferred to the Council;
- 25 (viii) the establishment, maintenance and management of hospitals and dispensaries, asylums and poorhouses, other than those managed by the Central Government;
- (ix) the establishment, maintenance and management of markets and fairs, rest-houses and encamping grounds and the construction, repair and maintenance of all buildings connected with these institutions;
- 30 (x) the regulation and control of inns and innkeepers;
- (xi) the supply, storage and prevention from pollution of water for drinking, cooking and bathing purposes;
- 35 (xii) the construction, repair and maintenance of embankments, and the supply, storage and control of water for agricultural purposes;
- (xiii) the preservation and reclamation of soil and the drainage of swamps;
- 40 (xiv) the preservation, protection and improvement of live-stock and prevention of animal diseases, and veterinary training and practice;

- (xv) prevention of cruelty to animals;
- (xvi) public health and sanitation;
- (xvii) registration of births, marriages, and deaths;
- (xviii) fairs and agricultural and industrial exhibitions,
and the establishment and maintenance of model farms; 5
- (xix) the management of such ferries as may be entrusted
to the charge of the Council;
- (xx) the initiation, inspection and control of relief works;
- (xxi) the superintendence and control of panchayats and the
making of grants to them; 10
- (xxii) any other local works or measures likely to promote
the health, comfort, convenience and interests of the public or
the agricultural or industrial prosperity of the territory; and
- (xxiii) any other matters which the Central Government
may declare to be fit and proper matters to be taken under the 15
control and administration of the Council.

CHAPTER IV

PROCEDURE AND STAFF OF TERRITORIAL COUNCILS

Conduct of
Business.

29. A Territorial Council shall meet for the conduct of business
at least once in every two months and shall, with the previous 20
approval of the Administrator, make its rules of business with res-
pect to the summoning, notice, place, conduct and adjournment of
such meetings, and generally with respect to the mode of transacting
and managing the business of the Council as it may think fit, subject
to the following conditions— 25

(i) the Chairman or, in his absence, the Vice-Chairman, may
convene a meeting whenever he thinks fit and shall, upon a
requisition made in writing by not less than one-fifth of the
members of the Council, convene a meeting within a period of
one month from the date of receipt of such requisition; 30

(ii) the day, time and place of the meeting shall be fixed by
the Chairman;

(iii) every meeting shall be open to the public, unless a
majority of the members present thereat decide by a resolution
that any inquiry or deliberation pending before the Council is 35
such as should be held in private;

(iv) if at any time during a meeting it is brought to
the notice of the Chairman that the number of members present
inclusive of the Chairman falls short of one-fifth of the whole
number of members, the Chairman shall adjourn the meeting to 40

some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting, or if the latter meeting should again be adjourned, at any subsequent adjourned meeting whether there is a quorum present thereat or not;

(v) at least seven clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in case of urgency any such meeting may be called upon a notice of not less than three clear days; of adjourned meetings such previous notice shall be given as shall be practicable;

(vi) no business shall be transacted at any meeting other than the business specified in the notice or supplementary notice;

(vii) the minutes of the proceedings of the Council shall be drawn up for each meeting, shall be signed by the Chairman and shall at all reasonable times be open to inspection at the office of the Council by any member free of charge, and by any other person on payment of a fee of eight annas;

(viii) a member shall not vote or take part in the discussion of any matter before a meeting or ask any question concerning any matter in which he has directly or indirectly, by himself or by his partner, any share or interest or in which he is professionally interested on behalf of a client, principal or other person;

Explanation: For the purpose of this clause a member shall not be deemed to have any share or interest in a contract or employment by reason only of his having any share or interest in—

(a) any lease, sale or purchase of land or any agreement for the same; or

(b) any agreement for the loan of money or any security for the payment of money only; or

(c) any newspaper in which any advertisement relating to the affairs of the Territorial Council is inserted; or

(d) any joint stock company which shall contract with or be employed by the Territorial Council; or

(e) the occasional sale to the Council to a value not exceeding in any one official year two thousand rupees, of any article in which he regularly trades.

(ix) a declaration by the Chairman that a proposition has been carried and any entry to that effect in the minute-book shall, unless a poll is demanded at the time of such declaration by not less than four members, be conclusive evidence of the

fact, without proof of the number of votes given for or against the proposition; and

(x) when a poll is taken, the vote of each member present and voting upon the proposition shall be taken by tellers appointed by the Chairman and the names of the members voting 5 respectively for or against the proposition shall be recorded in the minute-book.

Right of Administrator to attend and address meetings of Territorial Council.

30. (1) The Administrator may attend, and if he so desires, address, any meeting of the Territorial Council.

(2) When the Administrator attends any such meeting, he shall 10 preside over the same.

Committees.

31. A Territorial Council may, from time to time, appoint out of its own body such and so many committees for the efficient discharge of its duties, as may be necessary.

Officers and staff.

32. (1) For every Territorial Council there shall be a chief 15 executive officer who shall be appointed by the Administrator.

(2) If a resolution for the removal of the chief executive officer is passed at a meeting of the Territorial Council by a majority of not less than three-fourths of the members present and voting, the Administrator shall remove him forthwith. 20

(3) The appointment of the principal officers in charge of engineering, health services and education shall be made by the Council with the approval of the Administrator.

(4) The Council shall, in addition, appoint such staff as may be necessary for the proper and efficient execution of its duties and make regulations for their conditions of service. 25

(5) The power of appointing officers and staff (whether temporary or permanent) shall be exercised in accordance with the rules framed for the purpose:

Provided that no person shall be appointed to a post the minimum 30 monthly salary (exclusive of allowances) for which is Rs. 300 per mensem or more except after consultation with the Union Public Service Commission in accordance with the rules.

(6) The conditions of service applicable to a person immediately before his appointment to a post under a Territorial Council shall 35 not be varied to his disadvantage except with the previous approval of the Central Government.

(7) Every officer or member of staff of a Territorial Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 40

CHAPTER V

FINANCE OF TERRITORIAL COUNCILS AND VESTING OF PROPERTY

33. Notwithstanding anything to the contrary contained in any other law for the time being in force, a Territorial Council may Powers of taxation.
 5 levy either or both of the following taxes, namely—

(i) taxes on professions, trades, callings and employments; and

(ii) tolls on bridges constructed or maintained at the cost of the Territorial Council:

10 Provided that if, immediately before the commencement of this Act, a tax on professions, trades, callings or employments was being lawfully levied by any local authority, that tax may continue to be levied by that authority at the same or a lower rate:

Provided further that no toll shall be levied on any bridge the
 15 cost or estimated cost of which is not more than five lakhs of rupees.

34. Income from property owned by or assigned to the Territorial Council shall accrue wholly to that Council. Income from property.

35. A Territorial Council may fix and levy—

Levy of fees.

(a) school fees; and

20 (b) fees for the use of, or benefits derived from any of the works done or services rendered under clauses (viii), (ix), (xi), (xii), (xv), (xvi), (xviii), (xix) and (xxii) of section 28.

36. The Central Government may pay to a Territorial Council Payment by Central Government.
 sums equivalent to the proceeds of the following taxes attributable
 25 to the area or areas within the jurisdiction of that Council—

(a) the net proceeds of the entertainment tax, including any theatre or show tax;

(b) such percentage of the net proceeds of land revenue not exceeding ten as may be prescribed by the Central Government;

30 (c) the net proceeds of the taxes levied on motor vehicles;

(d) the net proceeds of the taxes levied under any law which may be in force for the taxation of passengers and goods or fares and freights and the net proceeds of any terminal tax on goods or passengers carried by road, railways, inland water-
 35 ways or by air;

Explanation.—The expression 'net proceeds' shall mean the proceeds of the taxes after deducting such charges as may be certified by the Central Government as incurred on account of collection, and in the case of the taxes mentioned in clause (c)

shall also be understood as excluding the proceeds of such fees as may be collected for services rendered by the Central Government.

Grants 37. The Central Government may, subject to such conditions, if any, as it may impose, make such grant or grants to the Territorial Council as it thinks fit. 5

Procedure for imposing taxes. 38. (1) A Territorial Council may resolve, at a meeting specially convened for the purpose to propose the imposition of any of the taxes mentioned in section 33.

(2) When a resolution has been passed, the Council shall publish a notice in the official Gazette defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted. 10

(3) Any person directly or indirectly affected by the proposed tax and objecting to it may, within thirty days from the publication of the notice, send his objections in writing to the Council and the Council shall, at a specially convened meeting, take all such objections into consideration. 15

(4) If no objection is sent within the said period of thirty days, or if the objections received are deemed insufficient, the Council may submit through the Administrator its proposals to the Central Government, with the objections, if any, and its decision thereon. 20

(5) The Central Government may then sanction the proposals, or refuse to sanction them, or return them for further consideration.

(6) When the proposals in respect of a tax have been sanctioned, the Central Government shall notify its imposition in the official Gazette and specify a date not later than three months from the date of notification on which the tax shall come into force. 25

Reduction or abolition of tax. 39. The Central Government may, by notification in the official Gazette, and a Territorial Council may, with the previous approval of the Central Government, by a resolution passed at a meeting specially convened for the purpose, abolish or reduce any tax imposed under section 33. 30

Recovery of taxes and fees. 40. All taxes, and fees and all arrears of such taxes, rates or fees, may be recovered as if they were arrears of land revenue. 35

Assessment and collection of taxes and fees. 41. A Territorial Council may, by notification in the official Gazette, determine the person by whom any tax, or fee shall be assessed and collected, and make rules for the assessment and collection of such tax, or fee, and direct in what manner persons employed in the assessment or collection shall be remunerated. 40

42. (1) In matters connected with the assessment and collection Appeals of any tax, rate or fee an appeal shall lie from the order of any person authorised to make assessment or collections to such person as the Administrator may appoint or designate for the purpose.

5 (2) An appeal under sub-section (1) shall be presented within thirty days from the date of the order.

(3) The order passed on the appeal shall be final.

43. A Territorial Council may, by notification in the official ^{Instalments of taxes and fees.} Gazette, prescribe by what instalments and at what times any tax or fee shall be payable.

44. A Territorial Council may, with the previous approval of the Central Government, by notification in the official Gazette, remit or reduce any tax or fee or exempt any persons or class of persons or any description of property, wholly ~~or in~~ any part, from liability ^{Power to exempt from taxation.} to any tax or fee and cancel any such remission, reduction or exemption.

45. (1) Save as provided by section 40 all moneys claimable by a Territorial Council may be recovered on application to a Magistrate having jurisdiction in the area where the person from whom the ^{Recovery of moneys claimable by the Council.} money is claimable may, for the time being, be resident, by the distress and sale of any movable property within the limits of his jurisdiction belonging to such person and the cost of such proceedings shall be recoverable in the same manner as the said moneys.

(2) An application for recovery of money shall be in writing and shall be signed by an officer authorised in this behalf by order of the Chairman.

46. A Territorial Council may with the previous approval of the Central Government borrow on the security of any property belonging to the council such sums as may be necessary for any of the purposes ^{Borrowing Powers.} of this Act.

47. All moneys received by or on behalf of the Territorial Council under the provisions of this Act or any other law for the time being in force shall be credited to a fund, which shall be called the "Council Fund" and which shall be held by the Territorial Council in trust for the purposes of this Act. ^{Council Fund.}

48. (1) The Council Fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over. ^{Custody and investment of Council Fund.}

(2) In places where there is no such treasury or bank, the Council Fund may be kept with a banker, or person acting as a banker, who has given such security for the safe custody and repayment on

demand of the fund so kept as the Administrator may in each case think sufficient.

(3) Subject to such rules as the Central Government may make in this behalf, the Territorial Council may from time to time, with the previous sanction of the Administrator, invest any portion 5 of the Council Fund in securities of the Central Government or invest it in such other securities or place it in such other manner as the Administrator may approve in this behalf, and, with the previous sanction of the Administrator, may vary such investment for any other investment or investments of like nature. 10

(4) The income accruing from the securities or other investments and the proceeds of the sale of the same shall be credited to the Council Fund.

Property
vested in
Territorial
Council.

49. Subject to any order of the Central Government, all property of the nature specified below and situated in the Union territory 15 shall vest in and belong to the Territorial Council, and shall with all other property which may become vested in the Council, be under its direction, management, and control and shall be held and applied for the purposes of this Act—

(a) all public buildings constructed or maintained out of 20 the Council Fund;

(b) all public roads which have been constructed or are maintained out of the Council Fund, and the stones and other materials thereof, and also all trees, erections, materials, imple- 25 ments and things provided for such roads;

(c) all land or other property transferred to the Territorial Council by the Central Government, or by gift, sale or otherwise for public purposes.

The Budget. 50. (1) A Territorial Council shall appoint a finance committee consisting of such number of members as may be prescribed by rules 30 made under section 54.

(2) A Territorial Council shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit an estimate of the income and expenditure of the Council for the next financial year, in such form as the Central Government may 35 prescribe.

(3) The Territorial Council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The Council shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the 40 Administrator.

(5) The Administrator may, on or before a prescribed day, return the estimate to the Council for amendment on the ground that it fails to make adequate provision for—

- 5 (i) the maintenance of such minimum balance as may be prescribed, or
- (ii) the appropriation of any sum allotted to the Council by the Central Government for the purpose for which it was allotted, or
- 10 (iii) the repayment of loans or any other expenditure for which the Council is legally liable, or
- (iv) any expenditure proposed in the budget, or
- (v) the continuance in future years of any recurring expenditure proposed in the budget.

(6) When a budget is returned under sub-section (5), the Council 15 shall consider the proposed amendments, take a decision thereon, and report the same to the Administrator.

(7) The budget estimate finally adopted by the Council shall be the budget of the Territorial Council.

(8) Any subsequent alteration in the budget, or reappropriation 20 or transfer of provision within the estimate, shall be made with the approval of the Council and shall be reported to the Administrator.

51. Accounts of receipt and expenditure of a Territorial Council **Accounts.** shall be prepared, inspected and audited in such manner as the Central Government may, in consultation with the Comptroller and 25 Auditor General of India, direct.

CHAPTER VI

CONTROL

52. (1) It shall be the duty of the Chairman of a Territorial **Control.** Council to furnish to the Administrator a copy of the proceedings 30 of the meetings of the Council and such other information as he may require.

(2) The Administrator shall have the power to give to the Territorial Council all such directions as he may consider necessary in respect of subjects, curricula, text-books and standards of teaching 35 in schools vested wholly or partly in the Council and in schools wholly or partly maintained by grants payable from the Council Fund, and the Council shall comply with such directions.

(3) The Administrator may, by order and for reasons to be recorded suspend the execution of any resolution or order of the 40 Territorial Council, or prohibit the doing of any act which is about

to be done, or is being done, in pursuance of or under cover of any provision of the law relating to the constitution or functions of the Territorial Council, if in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause annoyance or injury to the public or to any class or body of persons: 5

Provided that the Council may, within fifteen days of the date of the order of the Administrator, offer such explanation as it deems fit in relation to the execution of the resolution or order which has been 10 suspended or the doing of the act which has been prohibited.

(4) When the Administrator makes any order as aforesaid, he shall furnish forthwith a copy of it to the Central Government with a statement of the reasons for making it and forward in due course to that Government the explanation, if any, offered by the Council 15 and that Government may, thereupon confirm, modify or rescind the order of the Administrator.

Power to
supersede
Territorial
Council.

53. (1) The Central Government may, on receipt of a report from the Administrator or otherwise, by order, supersede a Territorial Council on being satisfied that the Council is not competent to per- 20 form or persistently makes default in the performance of its duties, or exceeds or abuses its powers.

(2) When an order is made under sub-section (1) above, the Central Government may make such incidental and consequential provisions as may appear to be necessary or expedient for carrying 25 out the functions of the Territorial Council.

(3) As soon as may be after supersession of a Territorial Council under sub-section (1), and in any case within a period of one year from the date of such supersession, the Administrator with the previous approval of the Central Government shall, by one or more 30 notifications published in the official Gazette, call upon the constituencies to elect members in accordance with the provisions of this Act and the rules and orders thereunder before such date or dates as may be specified in the notification or notifications.

CHAPTER VII

35

RULES AND BYE-LAWS

Power of the
Central
Government
to make
rules.

54. (1) The Central Government may after previous publication make by notification in the official Gazette rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may—

- (i) regulate the conduct of business of a Territorial Council, including the appointment of Committees;
- 5 (ii) prescribe the form in which the budget estimate is to be prepared and the dates for the various stages of its completion;
- (iii) determine the language in which business will be transacted;
- (iv) regulate the powers of a Territorial Council to transfer
10 property;
- (v) regulate the power of a Territorial Council to contract and do other things necessary for the purpose of its constitution and the mode of executing contracts;
- (vi) regulate the employment, payment, suspension and
15 removal of officers and servants of a Territorial Council;
- (vii) protect the terms and conditions of service of the government servants transferred to a Territorial Council;
- (viii) prescribe the forms for statements, registers, estimates and accounts and regulate the keeping, checking and publication
20 of such accounts, and the manner of periodical audit;
- (ix) regulate the submission for approval of plans, designs, specifications and estimates of work;
- (x) prescribe the extent and the nature of superintendence and control of panchayats; and
- 25 (xi) provide for the guidance of a Territorial Council when suits and other proceedings are intended to be or have been instituted by or against it in civil courts.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid for not less than thirty days before both
30 Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

55. (1) Subject to the provisions of this Act and of the rules made thereunder, a Territorial Council may make bye-laws to provide for
35 all or any of the following matters in the Union territory or in any part thereof, namely:—

- (a) the maintenance and management of schools and grant of stipends and scholarships;
- (b) control and administration of dispensaries, hospitals and
40 asylums, their construction and repairs, the supply of medicines and the measures to be taken during the prevalence of disease;

Power to
make bye-
laws.

(c) the protection from pollution of such tanks, springs, wells or parts of rivers, streams, channels or water-courses as are set apart for drinking or culinary purposes;

(d) the prohibition of the obstruction of any streams, channels and drains under the control of a Territorial Council 5 or the removal of any obstruction;

(e) the maintenance of private bazars and melas in a sanitary condition;

(f) the establishment and maintenance of hotels and inns, the destruction of unclaimed and diseased dogs and noxious 10 animals, the holding of fairs and exhibitions, the relief of distress, and the carrying out of any other work likely to promote the health, comfort and convenience of the public;

(g) the regulation of traffic on roads over which the public have a right of way; 15

(h) the registration of births, deaths and marriages;

(i) any other matter which is necessary for carrying out all or any of the provisions of this Act and the rules made thereunder.

(2) A bye-law made under sub-section (1) shall not have effect 20 until it has been confirmed by the Central Government and published in such manner as that Government may direct.

(3) The Central Government in confirming a bye-law may make any change therein which appears to it to be necessary.

Penalty for
infringement
of rules or
bye-laws.

56. (1) In making any rule, the Central Government and in 25 making any bye-law, a Territorial Council may direct that a breach of the same shall be punished with fine which may extend to one hundred rupees, and, in the case of a continuing breach, with a further fine which may extend to ten rupees for every day during which the breach is continued after the offender has been convicted 30 of such breach.

(2) In default of payment of any fine, the defaulter shall be punishable with imprisonment for a term which may extend to fifteen days.

CHAPTER VIII

35

SUPPLEMENTARY PROVISIONS

Prosecution.

57. Prosecution for any offence under this Act may be instituted by any person authorised by name or office by the Chairman in this behalf.

58. A person wilfully obstructing a Territorial Council, or any officer or servant of the Council, or any person authorised by the Council, in the exercise of its powers, shall be punishable with fine which may extend to fifty rupees. **Penalty for obstruction.**

5 59. A Territorial Council may pay compensation out of its fund to any person sustaining damage by reason of the exercise of any of the powers vested in the Council, or its officers and staff and shall pay such compensation when the damage was caused by the negligence of the Council, its officers or staff and the person
10 sustaining the damage was not himself in default in the matter in respect of which the power was exercised. **Payment of compensation.**

60. (1) A Territorial Council or with its authorisation its Chairman, Vice-Chairman, or Chief Executive Officer may, subject to the bye-laws made by the Council for the purpose, accept from any person
15 against whom a reasonable suspicion exists that he has committed an offence under the Act or any rule or bye-law made thereunder, a sum of money by way of compensation for such offences. **Power to compound offences.**

(2) On payment of such sum of money the suspected person if in custody shall be discharged and no further proceedings shall be taken
20 against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of compensation under the foregoing provisions shall be credited to the funds of the Council.

(4) The authorisation under sub-section (1) to accept composition for alleged offences may be given by the Council either generally
25 in regard to all offences against this Act or the rules or bye-laws made thereunder or particularly only in regard to a specified offence or offences and may be withdrawn at any time.

61. Where any land is required for the use of a Territorial Council, the Central Government may, at the request of the Council, proceed
30 to acquire it under the provisions of the law relating to acquisition of land for the time being in force and, on the payment by the Council of the compensation awarded under the law, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Council. **Acquisition of land.**

35 62. If any member, officer or other employee of a Territorial Council enters into any contract made with the Council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code. **Penalty on member, officer or servant, being interested in contracts made with the Council**

Removal of
difficulties.]

63. The Central Government may, by order, do anything which appears to be necessary or expedient for the purpose of removing any difficulties which may arise in giving effect to the provisions of this Act.

Abolition of
Zilla Pan-
chayats and
consequential
amendments
in the Hima-
chal Pradesh
Panchayat
Raj Act,
1952.

64. (1) As from the date of establishment of the Territorial Council for the Union territory of Himachal Pradesh, all Zilla Panchayats constituted under the Himachal Pradesh Panchayat Raj Act, 1952 shall stand abolished:

Provided that—

(a) all funds and properties vested in any such Zilla Panchayat shall on its abolition be deemed to be vested in the Territorial Council;

(b) all debts, obligations and liabilities incurred, all contracts entered into, and all matters and things engaged to be done, by, with or for any such Zilla Panchayat shall on its abolition be deemed to have been incurred, entered into or engaged to be done by, with or for the Territorial Council;

(c) all taxes, fees and sums of money due to any such Zilla Panchayat shall on its abolition be deemed to be due to the Territorial Council;

(d) all suits, prosecutions and other legal proceedings instituted or which might, but for the abolition of any such Zilla Panchayat, have been instituted by or against such Panchayat under the Himachal Pradesh Panchayat Raj Act, 1952, may on its abolition be continued or instituted by or against the Territorial Council.

(2) The amendments directed in the Schedule shall be made in the Himachal Pradesh Panchayat Raj Act, 1952.

Amendment
of Act 43
of 1950.

65. In the Representation of the People Act, 1950—

(a) in section 27-A, for sub-sections (3), (4) and (5), the following sub-sections shall be substituted, namely:—

“(3) The electoral college for the Union territory of Delhi shall consist of the persons who immediately before the first day of November, 1956, were members of the Legislative Assembly of the State of Delhi.

(4) The electoral college for each of the Union territories of Himachal Pradesh, Manipur and Tripura shall consist of the members of the territorial Council constituted for that territory under the Territorial Councils Act, 1956.”;

§ (b) in the Fifth Schedule, in the second column, for the figures “41”, the figures “40” shall be substituted.

66. Section 13 of the Representation of the People Act, 1951, shall be omitted.

Amendment
of Act 43 of
1951.

THE SCHEDULE

(See section 64)

AMENDMENTS IN THE HIMACHAL PRADESH PANCHAYAT RAJ ACT, 1952,
CONSEQUENTIAL ON THE ABOLITION OF ZILLA PANCHAYATS.*Section 2.*—In sub-section (1)— 5

(i) in clauses (e) and (w), for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat";

(ii) omit clause (cc).

Section 4.—For "Tehsil Panchayat and Zilla Panchayat", substitute "and Tehsil Panchayat". 10*Section 17.*—In clause (g), omit "and Zilla Panchayat" and for "them" substitute "it".*Section 21.*—In sub-section (2), omit "and Zilla Panchayat".*Section 22.*—Omit "and the Zilla Panchayat".*Section 30.*—In sub-section (1), omit "Zilla Panchayat" occurring 15
in the first place and for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat".*Section 34.*—Omit "a Zilla Panchayat".*Section 36.*—In clause (h) of sub-section (2), omit "Zilla Panchayat". 20*Section 38.*—Omit "a Zilla Panchayat" and for "Tehsil Panchayat or Zilla Panchayat" occurring in two places, substitute "or Tehsil Panchayat".*Section 39.*—In sub-section (2), omit the proviso.*Section 99.*—Omit "and a Zilla Panchayat" and "and Zilla". 25*Section 100.*—Omit "or a Zilla Panchayat".*Section 102.*—Omit.*Section 103.*—(i) In sub-section (1), omit "and the Deputy Commissioner as the President of the Zilla Panchayat";(ii) In sub-section (2), omit "or the Deputy Commissioner" and 30
"or the Zilla Panchayat, as the case may be".*Section 104.*—Omit "or the Zilla Panchayat" and "or Zilla Panchayat, as the case may be".*Section 105.*—Omit "or the Zilla Panchayat".*Section 106.*—(i) Omit sub-section (2); 35

(ii) In sub-section (3), omit "or Zilla Panchayat" and "or the Deputy Commissioner, as the case may be".

Section 110.—Omit.

Section 111.—Omit.

5 Section 112.—Omit.

Section 113.—Omit "or the Zilla Panchayat" and "or the Zilla Fund, as the case may be".

Section 114.—Omit "or the Zilla Panchayat" and "or the Zilla Panchayat, as the case may be".

10 Section 116.—Omit.

Section 117.—Omit.

Section 118.—(i) In clause (a), omit "Zilla Panchayat" occurring in two places;

(ii) In clause (b), omit "Zilla Panchayat";

15 (iii) In clause (c), omit "a Zilla Panchayat" and "Zilla Panchayat";

(iv) In clause (d), omit "Zilla Panchayat" occurring in two places;

(v) In clause (e), for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat";

20 (vi) In clause (f), omit "Zilla Panchayat" occurring in two places.

Section 119.—In sub-sections (1), (2) and (3), omit "Zilla Panchayat".

Section 122.—Omit "or a Zilla Panchayat".

Section 123.—In sub-section (2), for "Tehsil Panchayat or Zilla
25 Panchayat", substitute "or Tehsil Panchayat".

Section 125.—In clause (a), for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat".

Section 127.—In sub-section (1), for "Tehsil Panchayat or a Zilla Panchayat", substitute "or Tehsil Panchayat".

30 Section 129.—In sub-section (1), for "Tehsil Panchayat or Zilla Panchayat" occurring in two places, substitute "or Tehsil Panchayat".

Section 130.—In sub-section (1), omit "or Zilla Panchayat" occurring in the first place and for "Tehsil Panchayat or Zilla Panchayat", substitute "or Tehsil Panchayat".

35 Section 131.—In sub-section (1), for "a Tehsil Panchayat or a Zilla Panchayat", substitute "or a Tehsil Panchayat" and omit "or Zilla Panchayat".

Section 135.—In sub-section (2), in clauses (ii), (iii) and (vii), omit "Zilla Panchayat".

40 Section 138.—Omit clause (b).

STATEMENT OF OBJECTS AND REASONS

On September 4, 1956, the Minister of Home Affairs stated in Lok Sabha that it was intended to set up a Municipal Corporation for Delhi and territorial councils or bodies, with necessary modifications, for Himachal Pradesh, Manipur and Tripura. The territorial bodies, it was stated, would be elected on the basis of adult franchise and would be in charge of local affairs in the same manner as the Corporation would be in charge of such affairs in Delhi. The Minister of Home Affairs further stated that these bodies would serve as electoral colleges for elections to the Rajya Sabha. This statement was made after considering the opinion expressed in the Joint Select Committee on the Constitution (Ninth) Amendment Bill in favour of the establishment in Delhi, Himachal Pradesh, Manipur and Tripura of elected bodies to deal with matters of local concern.

2. The Bill seeks to provide for the establishment of territorial councils in the Union territories of Himachal Pradesh, Manipur and Tripura on the lines of the statement made by the Minister of Home Affairs in the Lok Sabha.

GOVIND BALLABH PANT.

NEW DELHI;
The 13th December, 1956.

FINANCIAL MEMORANDUM

Clause 36 of the Bill provides that sums equivalent to the net proceeds of the taxes levied under the Passengers and Goods Taxation Act, the taxes levied on motor vehicles, the entertainment tax and also an amount not exceeding ten per cent. of the net proceeds of land revenue may be paid to the Territorial Councils from out of the Consolidated Fund of India. At the existing level of revenue, these payments are expected to amount to approximately Rs. 11 lakhs in the case of Himachal Pradesh, Rs. 5 lakhs in the case of Manipur and Rs. 2·5 lakhs in the case of Tripura. In addition, clause 37 provides that the Central Government may make such grants to the Councils as it may think fit.

2. It is not possible at this stage to estimate the amount, if any, of the grants which may have to be made from Central revenues under clause 37.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 20 and 54 of the Bill empower the Central Government to make rules. The matters in respect of which such rules may be made have been specified in those clauses. Clause 20 provides for the making of rules relating to the drawing up of the election programme, appointment of election officers, scrutiny of nominations and other similar matters of detail relating to the election of members.

Clause 54 deals with the normal rule-making powers of the Government for carrying out the purposes of the Act. The matters specified in this clause are matters of detail and procedure which it is difficult and cumbersome to provide for in the Act itself.

In clause 55, the Territorial Council has been empowered to make bye-laws consistent with the provisions of the Act and the rules made thereunder in regard to the matters specified in that clause. Moreover, the bye-laws are subject to confirmation by the Central Government. It is usual to give such powers to authorities and bodies like the Territorial Council.

The provisions of the Bill regarding delegated legislation are of the normal type.

M. N. KAUL,
Secretary.